

**RETIREMENT INCOME TAX AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill creates an individual income tax credit for certain social security benefits and an individual income tax credit for military retirement pay.

**Highlighted Provisions:**

This bill:

- defines terms;
- enacts a tax credit for social security benefits that are included in the claimant's federal adjusted gross income;
- provides that an individual who claims the tax credit for social security benefits may not also claim the retirement tax credit;
- creates a nonrefundable individual income tax credit for military retirement pay;
- provides that an individual who claims the tax credit for military retirement pay may not also claim the retirement tax credit; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-10-1002.2**, as last amended by Laws of Utah 2016, Chapter 263

**59-10-1019**, as renumbered and amended by Laws of Utah 2008, Chapter 389

ENACTS:

**59-10-1042**, Utah Code Annotated 1953

**59-10-1043**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **59-10-1002.2** is amended to read:

**59-10-1002.2. Apportionment of tax credits.**

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, ~~or~~ 59-10-1028, 59-10-1042, or 59-10-1043 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 2. Section **59-10-1019** is amended to read:

**59-10-1019. Definitions -- Nonrefundable retirement tax credits.**

(1) As used in this section:

(a) "Eligible ~~age 65 or older retiree~~ claimant" means a claimant, regardless of whether that claimant is retired, who ~~is~~ was born on or before December 31, 1952.

~~[(i) is 65 years of age or older; and]~~

~~[(ii) was born on or before December 31, 1952.]~~

~~[(b) (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:]~~

~~[(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and]~~

64           ~~[(B) (f) paid from an annuity contract purchased by an employer under a plan that~~  
65 ~~meets the requirements of Section 404(a)(2), Internal Revenue Code;]~~

66           ~~[(H) purchased by an employee under a plan that meets the requirements of Section~~  
67 ~~408, Internal Revenue Code; or]~~

68           ~~[(HH) paid by:]~~

69           ~~[(Aa) the United States;]~~

70           ~~[(Bb) a state or a political subdivision of a state; or]~~

71           ~~[(Cc) the District of Columbia.]~~

72           ~~[(ii) "Eligible retirement income" does not include amounts received by the spouse of a~~  
73 ~~living eligible under age 65 retiree because of the eligible under age 65 retiree's having been~~  
74 ~~employed in a community property state.]~~

75           ~~[(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that~~  
76 ~~claimant is retired, who:]~~

77           ~~[(i) is younger than 65 years of age;]~~

78           ~~[(ii) was born on or before December 31, 1952; and]~~

79           ~~[(iii) has eligible retirement income for the taxable year for which a tax credit is~~  
80 ~~claimed under this section.]~~

81           ~~[(d)]~~ (b) "Head of household filing status" ~~[is as]~~ means the same as that term is  
82 defined in Section 59-10-1018.

83           ~~[(e)]~~ (c) "Joint filing status" ~~[is as]~~ means the same as that term is defined in Section  
84 59-10-1018.

85           ~~[(f)]~~ (d) "Married filing separately status" means a married individual who:

86           (i) does not file a single federal individual income tax return jointly with that married  
87 individual's spouse for the taxable year; and

88           (ii) files a single federal individual income tax return for the taxable year.

89           ~~[(g)]~~ (e) "Modified adjusted gross income" means the sum of an eligible ~~[age 65 or~~  
90 ~~older retiree's or eligible under age 65 retiree's]~~ claimant's:

91           (i) adjusted gross income for the taxable year for which a tax credit is claimed under  
92 this section;

93           (ii) ~~[any]~~ interest income that is not included in adjusted gross income for the taxable  
94 year described in Subsection (1)~~[(g)]~~(e)(i); and

(iii) ~~[any]~~ addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)~~[(g)]~~(e)(i).

~~[(h)]~~ (f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2 and ~~[subject to Subsections (3) through (5): (a)]~~ Subsections (3) and (4), each eligible ~~[age 65 or older retiree]~~ claimant may claim a nonrefundable tax credit of \$450 against taxes otherwise due under this part~~[-or]~~.

~~[(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes otherwise due under this part in an amount equal to the lesser of:]~~

~~[(i) \$288; or]~~

~~[(ii) the product of:]~~

~~[(A) the eligible under age 65 retiree's eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section; and]~~

~~[(B) 6%.]~~

~~[(3) A tax credit under this section may not be carried forward or carried back.]~~

(3) (a) An eligible claimant may not:

(i) carry forward or carry back the amount of a tax credit under this section that exceeds the eligible claimant's tax liability for the taxable year; or

(ii) claim a tax credit under this section and a tax credit under Section 59-10-1042 or 59-10-1043.

(b) An eligible claimant who qualifies for a tax credit under this section and a tax credit under Section 59-10-1042 or 59-10-1043 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1042 or 59-10-1043.

(4) The ~~[sum of the tax credits]~~ tax credit allowed by Subsection (2) claimed on ~~[one]~~ a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, \$16,000;

(b) for a federal individual income tax return that is allowed a single filing status, \$25,000;

(c) for a federal individual income tax return that is allowed a head of household filing

126 status, \$32,000; or

127 (d) for a return under this chapter that is allowed a joint filing status, \$32,000.

128 ~~[(5) For purposes of determining the ownership of items of retirement income under~~  
129 ~~this section, common law doctrine shall be applied in all cases even though some items of~~  
130 ~~retirement income may have originated from service or investments in a community property~~  
131 ~~state.]~~

132 Section 3. Section **59-10-1042** is enacted to read:

133 **59-10-1042. Nonrefundable tax credit for social security benefits.**

134 (1) As used in this section:

135 (a) "Head of household filing status" means the same as that term is defined in Section  
136 59-10-1018.

137 (b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

138 (c) "Married filing separately status" means a married individual who:

139 (i) does not file a single federal individual income tax return jointly with that married  
140 individual's spouse for the taxable year; and

141 (ii) files a single federal individual income tax return for the taxable year.

142 (d) "Modified adjusted gross income" means the sum of a claimant's:

143 (i) adjusted gross income for the taxable year for which a tax credit is claimed under  
144 this section;

145 (ii) interest income that is not included in adjusted gross income for the taxable year  
146 described in Subsection (1)(d)(i); and

147 (iii) addition to adjusted gross income required by Section 59-10-114 for the taxable  
148 year described in Subsection (1)(d)(i).

149 (e) "Single filing status" means a single individual who files a single federal individual  
150 income tax return for the taxable year.

151 (f) "Social security benefit" means an amount received by a claimant as a monthly  
152 benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

153 (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each  
154 claimant on a return that receives a social security benefit may claim a nonrefundable tax credit  
155 against taxes otherwise due under this part equal to the product of:

156 (a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) (a) A claimant may not:

(i) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's tax liability for the taxable year; or

(ii) claim a tax credit under this section and a tax credit under Section 59-10-1019.

(b) A claimant that qualifies for a tax credit under this section and a tax credit under Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1019.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, \$24,000;

(b) for a federal individual income tax return that is allowed a single filing status, \$30,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, \$48,000; or

(d) for a return under this chapter that is allowed a joint filing status, \$48,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.

Section 4. Section **59-10-1043** is enacted to read:

**59-10-1043. Nonrefundable tax credit for military retirement.**

(1) As used in this section:

(a) "Military retirement pay" means retirement pay that relates to service in the armed forces, including service in the National Guard or military reserves.

(b) "Military retirement pay" does not include:

(i) Social security income; or

(ii) 401 (k) or IRA distributions.

(2) Except as provided in Section 59-10-1002.2, a claimant who receives military

188 retirement pay may claim a nonrefundable tax credit against taxes otherwise due under this part  
189 equal to the product of:

190 (a) the percentage listed in Subsection 59-10-104(2); and

191 (b) the military retirement pay that is included in adjusted gross income on the  
192 claimant's federal income tax return for the taxable year.

193 (3) (a) A claimant may not:

194 (i) carry forward or carry back the amount of a tax credit under this section that  
195 exceeds the claimant's tax liability for the taxable year; or

196 (ii) claim a tax credit under this section and a tax credit under Section 59-10-1019.

197 (b) A claimant that qualifies for a tax credit under this section and a tax credit under  
198 Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit  
199 under Section 59-10-1019.

200 **Section 5. Retrospective operation.**

201 This bill has retrospective operation for a taxable year beginning on or after January 1,  
202 2021.